

SENATE GENERAL WELFARE COMMITTEE AMENDMENT NO. 1

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1454

House Bill No. 0832

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1.

(a) Except as otherwise provided, the term "solicit" as used herein shall mean contact with a patient knowingly being treated by another home care organization for the purpose of attempting to persuade the patient to change home care organizations.

(b) The term "solicit" as used herein shall not include a home care organization's communications to the general public or any advertising of services through means of direct mail. The prohibition on solicitation set forth herein shall in no way prevent a physician from making a recommendation to a patient that the patient use a particular home care organization's services based upon the physician's independent judgment.

(c) As used herein, the term "home care organization" shall have that meaning as set forth in Tennessee Code Annotated, Section 68-11-201.

SECTION 2. It shall be unlawful for any home care organization through its officers, directors, employees or agents to knowingly solicit any patient to change home care organizations if that patient is being treated at the time by another home care organization.

SECTION 3. Nothing contained herein shall limit the right of a home care organization patient to change home care organizations at any such time as such patient shall so choose. Nothing contained herein shall prohibit any home care organization from discussing services with, or providing services to, someone who voluntarily makes an initial contact with such home

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care organization for the purpose of seeking services from such home care organization or who responds to a public advertisement by such home care organization.

SECTION 4.

(a) A home care organization found in violation of Section 2 of this act shall be subject to a fine of up to \$1,000.00 for each violation and/or an injunction by either a Circuit or Chancery Court of competent jurisdiction prohibiting further solicitation. An action seeking a fine and/or injunctive relief may be initiated by any home care organization that has had its patients solicited by the offending organization or by the Tennessee Board for Licensing Health Care Facilities. Any fine imposed on an offending party shall be payable to the Tennessee Board for Licensing Health Care Facilities. The prevailing party may, in the Court's discretion, be awarded attorney's fees for bringing the action. The fine provided for herein and the right to injunctive relief granted herein shall not prevent an offended organization from seeking monetary damages or any other relief against the offending organization to which it may be entitled at law or in equity.

(b) Upon the filing of an action by a home care organization pursuant to subsection (a), the party filing said action shall notify in writing the Tennessee Board for Licensing Health Care Facilities that the action has been filed. Said notice shall occur within thirty (30) days of the action being filed.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.